

This Page Is Inserted by IFW Operations  
and is not a part of the Official Record

## **BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

**IMAGES ARE BEST AVAILABLE COPY.**

**As rescanning documents *will not* correct images,  
please do not report the images to the  
Image Problem Mailbox.**

Attorney's Docket No. 38730.830024.000

**PATENT**

---

**COMBINED DECLARATION AND POWER OF ATTORNEY**

(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL, DIVISIONAL  
CONTINUATION OR C-I-P)

---

As a below named inventor, I hereby declare that:

**TYPE OF DECLARATION**

This declaration is of the following type:

(check one applicable item below)

- ☒ original.
- ☐ design.
- ☐ supplemental.

NOTE: If the declaration is for an International Application being filed as a divisional, continuation or continuation-in-part application, do not check next item; check appropriate one of last three items.

- ☐ national stage of PCT.

NOTE: If one of the following 3 items apply, then complete and also attach ADDED PAGES FOR DIVISIONAL CONTINUATION OR C-I-P.

- ☐ divisional.
- ☐ continuation.
- ☐ continuation-in-part (C-I-P).

**INVENTORSHIP IDENTIFICATION**

**WARNING:** If the inventors are each not the inventors of all the claims, an explanation of the facts, including the ownership of all the claims at the time the last claimed invention was made, should be submitted.

My residence, post office address and citizenship are as stated below, next to my name. I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter that is claimed, and for which a patent is sought on the invention entitled:

**TITLE OF INVENTION**

---

**ASSISTED VENTILATION TO MATCH PATIENT RESPIRATORY NEED**

---

## SPECIFICATION IDENTIFICATION

the specification of which:

(complete (a), (b) or (c))

(a) ☐ is attached hereto.

NOTE: The following combinations of information supplied in an oath or declaration filed on the application filing date with a specification are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 CFR 1.53:

"(1) name of inventor(s), and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration on filing;

"(2) name of inventor(s), and attorney docket number which was on the specification as filed; or

"(3) name of inventor(s), and title which was on the specification as filed."

Notice of July 13, 1995 (1177 O.G. 60).

(b) ☐ was filed on September 23, 1997 as ☐ Serial No. 08 / 935,785  
or ☐ \_\_\_\_\_  
and was amended on \_\_\_\_\_ (if applicable).

NOTE: Amendments filed after the original papers are deposited with the PTO that contain new matter are not accorded a filing date by being referred to in the declaration. Accordingly, the amendments involved are those filed with the application papers or, in the case of a supplemental declaration, are those amendments claiming matter not encompassed in the original statement of invention or claims. See 37 CFR 1.67.

NOTE: The following combinations of information supplied in an oath or declaration filed after the filing date are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 CFR 1.53:

"(1) name of inventor(s), and application number (consisting of the series code and the serial number, e.g., 08/123,456);

"(2) name of inventor(s), serial number and filing date;

"(3) name of inventor(s) and attorney docket number which was on the specification as filed;

"(4) name of inventor(s), title which was on the specification as filed and filing date;

"(5) name of inventor(s), title which was on the specification as filed and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration; or

"(6) name of inventor(s), title which was on the specification as filed and accompanied by a cover letter accurately identifying the application for which it was intended by either the application number (consisting of the series code and the serial number, e.g., 08/123,456), or serial number and filing date. Absent any statement(s) to the contrary, it will be presumed that the application filed in the PTO is the application which the inventor(s) executed by signing the oath or declaration."

Notice of July 13, 1995 (1177 O.G. 60).

(c) ☒ was described and claimed in PCT International Application No. PCT/AU97/00517 filed on August 14, 1997 and as amended under PCT Article 19 on \_\_\_\_\_ (if any).

### ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information, which is material to patentability as defined in 37, Code of Federal Regulations, § 1.56,

*(also check the following items, if desired)*

☒ and which is material to the examination of this application, namely, information where there is a substantial likelihood that a reasonable Examiner would consider it important in deciding whether to allow the application to issue as a patent, and

☐ in compliance with this duty, there is attached an information disclosure statement, in accordance with 37 CFR 1.56.

### PRIORITY CLAIM (35 U.S.C. § 119(a)-(d))

I hereby claim foreign priority benefits under Title 35, United States Code, § 119(a)-(d) of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

*(complete (c) or (e))*

(c) ☐ no such applications have been filed.

(e) ☒ such applications have been filed as follows.

*NOTE: Where item (c) is entered above and the International Application which designated the U.S. itself claimed priority check item (e), enter the details below and make the priority claim.*

**PRIOR FOREIGN/PCT APPLICATION(S) FILED WITHIN 12 MONTHS  
(6 MONTHS FOR DESIGN) PRIOR TO THIS APPLICATION  
AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. § 119(a)-(d)**

COUNTRY (OR INDICATE IF PCT)	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 37 USC 119	
Australia	PO2474	23 Sept 1996	<input checked="" type="checkbox"/> YES	NO <input type="checkbox"/>
PCT	PCT/AU97/00517	14 Aug 1997	<input checked="" type="checkbox"/> YES	NO <input type="checkbox"/>
			<input type="checkbox"/> YES	NO <input type="checkbox"/>
			<input type="checkbox"/> YES	NO <input type="checkbox"/>
			<input type="checkbox"/> YES	NO <input type="checkbox"/>

**CLAIM FOR BENEFIT OF PRIOR U.S. PROVISIONAL APPLICATION(S)  
(34 U.S.C. § 119(e))**

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below:

PROVISIONAL APPLICATION NUMBER

FILING DATE

\_\_\_\_ / \_\_\_\_\_  
 \_\_\_\_ / \_\_\_\_\_  
 \_\_\_\_ / \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**CLAIM FOR BENEFIT OF EARLIER US/PCT APPLICATION(S)  
UNDER 35 U.S.C. 120**

- ☐ The claim for the benefit of any such applications are set forth in the attached ADDED PAGES TO COMBINED DECLARATION AND POWER OF ATTORNEY FOR DIVISIONAL, CONTINUATION OR CONTINUATION-IN-PART (C-I-P) APPLICATION.

**ALL FOREIGN APPLICATION(S), IF ANY, FILED MORE THAN 12 MONTHS  
(6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION**

---

---

**NOTE:** If the application filed more than 12 months from the filing date of this application is a PCT filing forming the basis for this application entering the United States as (1) the national stage, or (2) a continuation, divisional, or continuation-in-part, then also complete **ADDED PAGES TO COMBINED DECLARATION AND POWER OF ATTORNEY FOR DIVISIONAL, CONTINUATION OR C-I-P APPLICATION** for benefit of the prior U.S. or PCT application(s) under 35 U.S.C. § 120.

**POWER OF ATTORNEY**

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

*(list name and registration number)*

Richard A. Bachand, #25,107	Homer L. Knearl, #21,197	James A. Pinto, #P40,774
Carol W. Burton, #35,465	William J. Kubida, #29,664	Andrew D. Sorensen, #33,606
William W. Cochran, #26,652	Stuart T. Langley, #33,940	John R. Wahl, #33,044
Earl C. Hancock, #19,472	Lee R. Osman, #38,260	

*(check the following item, if applicable)*

- ☐ Attached, as part of this declaration and power of attorney, is the authorization of the above-named attorney(s) to accept and follow instructions from my representative(s).

---

**SEND CORRESPONDENCE TO**

Andrew D. Sorensen  
Holland & Hart LLP  
555 17th Street, Suite 3200  
P. O. Box 8749  
Denver, CO 80201-8749

**DIRECT TELEPHONE CALLS TO:**  
*(Name and telephone number)*

Andrew D. Sorensen  
Telephone: (303) 295-8194  
Facsimile: (303) 295-8261

---

**DECLARATION**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

(Declaration and Power of Attorney [1-1]—page 5 of 7)

## SIGNATURE(S)

NOTE: Carefully indicate the family (or last) name, as it should appear on the filing receipt and all other documents.

Full name of sole or first inventor

Michael

(GIVEN NAME)

(MIDDLE INITIAL OR NAME)

BERTHON-JONES

FAMILY (OR LAST NAME)

Inventor's signature

*Michael Berton Jones*

Date

28 OCTOBER 1997

Country of Citizenship

AUSTRALIA

Residence

Leonay, New South Wales, Australia

Post Office Address

7 Leonay Parade

Leonay, New South Wales 2750

AUSTRALIA

Full name of second joint inventor, if any

(GIVEN NAME)

(MIDDLE INITIAL OR NAME)

FAMILY (OR LAST NAME)

Inventor's signature

Date

Country of Citizenship

Residence

Post Office Address

Full name of third joint inventor, if any

(GIVEN NAME)

(MIDDLE INITIAL OR NAME)

FAMILY (OR LAST NAME)

Inventor's signature

Date

Country of Citizenship

Residence

Post Office Address

(check proper box(es) for any of the following added page(s)  
that form a part of this declaration)

☐ Signature for fourth and subsequent joint inventors. Number of pages added \_\_\_\_\_

. . .

☐ Signature by administrator(trix), executor(trix) or legal representative for deceased or incapacitated inventor. Number of pages added \_\_\_\_\_

. . .

☐ Signature for inventor who refuses to sign or cannot be reached by person authorized under 37 CFR 1.47. Number of pages added \_\_\_\_\_

. . .

☐ Added page for signature by one joint inventor on behalf of deceased inventor(s) where legal representative cannot be appointed in time. (37 CFR 1.47)

. . .

☐ Added pages to combined declaration and power of attorney for divisional, continuation, or continuation-in-part (C-I-P) application.

☐ Number of pages added \_\_\_\_\_

. . .

☐ Authorization of attorney(s) to accept and follow instructions from representative.

. . .

(if no further pages form a part of this Declaration,  
then end this Declaration with this page and check the following item)

☒ This declaration ends with this page.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Michael BERTHON-JONES  
Serial No. : 08/935,785  
Filed : September 23, 1997  
Title : ASSISTED VENTILATION TO MATCH  
PATIENT RESPIRATORY NEED  
Examiner : A. Lewis  
Group Art Unit : 3761

SUBSTITUTE POWER OF ATTORNEY

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

ResMed Limited, an Australian company, being the assignee of the entire right, title and interest in and to the above-identified application and the invention described and claimed therein, pursuant to an assignment executed by the above-named applicant on October 28, 1997 and recorded in the United States Patent and Trademark Office on August 3, 1998 at Reel 9359, Frame 0703 et seq., hereby revokes all prior powers of attorney heretofore granted by the said applicant in this case and appoints instead

George Gottlieb (Reg. No. 22,035), Michael I. Rackman (Reg. No. 20,639), James Reisman (Reg. No. 22,007), Barry A. Cooper (Reg. No. 25,204), David S. Kashman (Reg. No. 28,725), Allen I. Rubenstein (Reg. No. 27,673), Jeffrey M. Kaden (Reg. No. 31,268), Amy B. Goldsmith (Reg. No. 33,700), Tiberiu Weisz (Reg. No. 29,876), Maria A. Savio (Reg. No. 31,565), and Norbert P. Hoeller (Reg. No. 17,816),

all of Gottlieb, Rackman & Reisman, P.C., 270 Madison Avenue, New York, NY 10016, and each of them, its attorneys, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

Please address all correspondence relating to this application to

MICHAEL I. RACKMAN, ESQ.  
Gottlieb, Rackman & Reisman, P.C.  
270 Madison Avenue, 8th Floor  
New York, NY 10016-0601

and direct telephone calls to Mr. Rackman at (212) 684-3900.

ResMed Limited

By: 

Name: W. Nicklin

Title: VP Manufacturing

Date: 10th January 2000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : Berthon-Jones, Michael  
SERIAL NO. : pending  
FILING DATE : herewith  
GROUP ART-UNIT : 3761  
EXAMINER : Lewis, Aaron J.  
TITLE : METHOD AND APPARATUS FOR PROVIDING  
VENTILATORY ASSISTANCE IN A SPONTANEOUSLY  
BREATHING SUBJECT

Assistant Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231

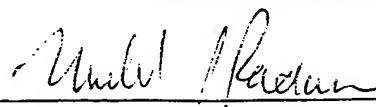
ASSOCIATE POWER OF ATTORNEY

This document shall serve to authorize Raymond B. Churchill, Jr., Esq. (Reg. No. 44,617) of the firm of GOTTLIEB, RACKMAN & REISMAN, P.C., 270 Madison Avenue, New York, New York 10016, (212) 684-3900, as associate attorney, to act on behalf of the Applicant for the above-captioned application, with full power to prosecute, to make alterations and amendments, and to transact all business in the Patent and Trademark Office connected therewith.

Please address all future correspondence and telephone calls to said associate attorney at the following mailing address: GOTTLIEB, RACKMAN & REISMAN, P.C., 270 Madison Avenue, New York, New York 10016; phone: (212) 684-3900.

Respectfully submitted  
GOTTLIEB, RACKMAN & REISMAN, P.C.

Date: 7/31/02

By:   
Michael I. Rackman  
Attorney for Applicant  
Reg. No. 20,639